

116TH CONGRESS
2D SESSION

S. _____

To establish the Commission on the COVID–19 Pandemic in the United States.

IN THE SENATE OF THE UNITED STATES

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To establish the Commission on the COVID–19 Pandemic in the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; SENSE OF CONGRESS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “National Commission on the COVID–19 Pandemic in the
6 United States Act”.

7 (b) **SENSE OF CONGRESS.**—It is the sense of Con-
8 gress that—

9 (1) it is important to consider what the
10 coronavirus disease 19 (COVID–19) pandemic re-

1 veals about the vulnerabilities to the national secu-
2 rity of the United States, especially how prepared
3 the United States would be for a biological attack
4 that not only causes public health confusion and fear
5 but also public fear similar to the level caused by a
6 terrorist attack;

7 (2) the purpose of establishing the commission
8 under section 2 is not just to look back at prior
9 practices and mistakes but to learn lessons as quick-
10 ly as possible to better protect the United States
11 going forward; and

12 (3) it is crucial to better understand the in-
13 creasing likelihood of pandemic threats (such as the
14 recent threats of severe acute respiratory syndrome
15 (SARS), Ebola, the 2009–H1N1 influenza, and
16 COVID–19) and health issues that the United
17 States could face during the next several decades.

18 **SEC. 2. NATIONAL COMMISSION ON THE COVID-19 PAN-**

19 **DEMIC IN THE UNITED STATES.**

20 (a) **ESTABLISHMENT OF COMMISSION.**—There is es-
21 tablished in the legislative branch the National Commis-
22 sion on the COVID–19 Pandemic in the United States (in
23 this section referred to as the “Commission”).

24 (b) **PURPOSES.**—The purposes of the Commission are
25 to—

1 (1) examine and report upon the facts and cir-
2 cumstances relating to the outbreak and spread of
3 coronavirus disease 19 (COVID–19) caused by the
4 severe acute respiratory syndrome coronavirus 2
5 (SARS–CoV–2) (in this section referred to as
6 “COVID–19”) in the United States;

7 (2) ascertain, evaluate, and report on the evi-
8 dence developed by any relevant governmental and
9 nongovernmental entities regarding the facts and
10 circumstances surrounding COVID–19;

11 (3) make a full and complete assessment and
12 accounting of the circumstances surrounding the
13 outbreak and spread of COVID–19 in the United
14 States;

15 (4) make a full and complete assessment and
16 accounting of the preparedness of the Federal Gov-
17 ernment, State governments, local governments, and
18 the private sector for the outbreak and spread of
19 COVID–19 in the United States;

20 (5) make a full and complete assessment and
21 accounting of the actions by the Federal Govern-
22 ment, State governments, local governments, and the
23 private sector in response to the outbreak and
24 spread of COVID–19 in the United States; and

1 (6) investigate and report to the President and
2 Congress on its findings, conclusions, and rec-
3 ommendations to improve the ability of the United
4 States to prepare for, detect, prevent, and, if nec-
5 essary, respond to epidemics and pandemics such as
6 COVID–19, whether naturally occurring or caused
7 by State or non-State actors.

8 (c) COMPOSITION OF COMMISSION.—

9 (1) MEMBERS.—The Commission shall be com-
10 posed of 10 members, of whom—

11 (A) 1 member shall be appointed by the
12 President, who shall serve as chair of the Com-
13 mission;

14 (B) 1 member shall be appointed by the
15 leader of the Senate (majority or minority lead-
16 er, as the case may be) of the political party
17 that is not the same political party as the Presi-
18 dent, in consultation with the leader of the
19 House of Representatives (majority or minority
20 leader, as the case may be) of the same political
21 party as such Senate leader, who shall serve as
22 vice chair of the Commission;

23 (C) 2 members shall be appointed by the
24 senior member of the Senate leadership of the
25 Democratic Party;

1 (D) 2 members shall be appointed by the
2 senior member of the leadership of the House
3 of Representatives of the Republican Party;

4 (E) 2 members shall be appointed by the
5 senior member of the Senate leadership of the
6 Republican Party; and

7 (F) 2 members shall be appointed by the
8 senior member of the leadership of the House
9 of Representatives of the Democratic Party.

10 (2) QUALIFICATIONS; INITIAL MEETING.—

11 (A) POLITICAL PARTY AFFILIATION.—Not
12 more than 5 members of the Commission shall
13 be from the same political party.

14 (B) NONGOVERNMENTAL APPOINTEES.—
15 An individual appointed to the Commission may
16 not be an officer or employee of the Federal
17 Government or any State or local government.

18 (C) QUALIFICATIONS.—It is the sense of
19 Congress that individuals appointed to the
20 Commission should be prominent United States
21 citizens, with national recognition and signifi-
22 cant depth of experience in such professions as
23 public health, medicine (including epidemi-
24 ology), governmental service, academia, home-
25 land security, the armed services, emergency

1 preparedness and management, law, public ad-
2 ministration, and intelligence.

3 (D) DEADLINE FOR APPOINTMENT.—All
4 members of the Commission shall be appointed
5 during the period beginning January 21, 2021,
6 and ending February 5, 2021.

7 (E) INITIAL MEETING.—The Commission
8 shall meet and begin the operations of the Com-
9 mission as soon as practicable.

10 (3) QUORUM; VACANCIES.—After its initial
11 meeting, the Commission shall meet upon the call of
12 the chair or a majority of its members. Six members
13 of the Commission shall constitute a quorum. Any
14 vacancy in the Commission shall not affect its pow-
15 ers, but shall be filled in the same manner in which
16 the original appointment was made.

17 (d) FUNCTIONS OF COMMISSION.—The functions of
18 the Commission are to—

19 (1) conduct an investigation that—

20 (A) addresses the matters specified in sub-
21 section (b);

22 (B) investigates relevant facts and cir-
23 cumstances relating to the outbreak and spread
24 of COVID–19 in the United States, and the re-
25 sponse to such outbreak and spread, including

1 with respect to any relevant legislation, Execu-
2 tive order, regulation, plan, policy, practice, or
3 procedure; and

4 (C) may include relevant facts and cir-
5 cumstances relating to—

6 (i) Federal, State, and local authori-
7 ties with responsibilities relevant to the
8 outbreak and spread of COVID–19 in the
9 United States, including such authorities
10 with responsibilities relating to public
11 health, emergency management, and epi-
12 demic and pandemic preparedness and re-
13 sponse;

14 (ii) private sector organizations;

15 (iii) intelligence agencies and law en-
16 forcement agencies;

17 (iv) diplomacy and international co-
18 ordination;

19 (v) immigration and border control;

20 (vi) the role of congressional oversight
21 and resource allocation; and

22 (vii) other activities of the public and
23 private sectors determined relevant by the
24 Commission for its inquiry;

1 (2) identify, review, and evaluate the lessons
2 learned from the outbreak and spread of COVID–19
3 in the United States, and the response to such out-
4 break and spread, regarding the structure, coordina-
5 tion, management, policies, procedures, and actions
6 of Federal, State, and local governments and non-
7 governmental entities relative to preparing for, de-
8 tecting, preventing, and responding to epidemics and
9 pandemics, whether naturally occurring or caused by
10 a State or non-State actor; and

11 (3) submit to the President and Congress such
12 reports as are required by this section containing
13 such findings, conclusions, and recommendations as
14 the Commission shall determine, including proposing
15 organization, coordination, planning, management
16 arrangements, procedures, rules, and regulations.

17 (e) POWERS OF COMMISSION.—

18 (1) IN GENERAL.—

19 (A) HEARINGS AND EVIDENCE.—The
20 Commission or, on the authority of the Com-
21 mission, any subcommittee or member thereof,
22 may, for the purpose of carrying out this sec-
23 tion—

24 (i) hold such hearings and sit and act
25 at such times and places, take such testi-

1 mony, receive such evidence, and admin-
2 ister such oaths, as the Commission or
3 such designated subcommittee or des-
4 ignated member may determine advisable;
5 and

6 (ii) subject to subparagraph (B)(i),
7 require, by subpoena or otherwise, the at-
8 tendance and testimony of such witnesses
9 and the production of such books, records,
10 correspondence, memoranda, papers, and
11 documents, as the Commission or such
12 designated subcommittee or designated
13 member may determine advisable.

14 (B) ISSUANCE OF SUBPOENAS.—

15 (i) IN GENERAL.—A subpoena may be
16 issued under this paragraph only—

17 (I) by the agreement of the chair
18 and the vice chair; or

19 (II) by the affirmative vote of 6
20 members of the Commission.

21 (ii) SIGNATURE.—Subject to clause
22 (i), subpoenas issued under this paragraph
23 may be issued under the signature of the
24 chair or any member designated by a ma-
25 jority of the Commission, and may be

1 served by any person designated by the
2 chair or by a member designated by a ma-
3 jority of the Commission.

4 (C) ENFORCEMENT OF SUBPOENAS.—

5 (i) IN GENERAL.—In the case of con-
6 tumacy or failure to obey a subpoena
7 issued under this paragraph, the United
8 States district court for the judicial district
9 in which the subpoenaed person resides, is
10 served, or may be found, or where the sub-
11 poena is returnable, may issue an order re-
12 quiring such person to appear at any des-
13 ignated place to testify or to produce docu-
14 mentary or other evidence. Any failure to
15 obey the order of the court may be pun-
16 ished by the court as a contempt of that
17 court.

18 (ii) ADDITIONAL ENFORCEMENT.—In
19 the case of any failure of any witness to
20 comply with any subpoena or to testify
21 when summoned under authority of this
22 subsection, the Commission may, by major-
23 ity vote, certify a statement of fact consti-
24 tuting such failure to the appropriate
25 United States attorney, who shall bring the

1 matter before the grand jury for its action,
2 under the same statutory authority and
3 procedures as if the United States attorney
4 had received a certification under sections
5 102 through 104 of the Revised Statutes
6 of the United States (2 U.S.C. 192
7 through 194).

8 (2) CONTRACTING.—The Commission may, to
9 such extent and in such amounts as are provided in
10 appropriation Acts, enter into contracts to enable
11 the Commission to discharge its duties under this
12 section.

13 (3) INFORMATION FROM FEDERAL AGENCIES.—

14 (A) IN GENERAL.—The Commission is au-
15 thorized to secure directly from any executive
16 department, bureau, agency, board, commission,
17 office, independent establishment, or instrumen-
18 tality of the Government, information, sugges-
19 tions, estimates, and statistics for the purposes
20 of this section. Each department, bureau, agen-
21 cy, board, commission, office, independent es-
22 tablishment, or instrumentality shall, to the
23 fullest extent permitted by law, furnish such in-
24 formation, suggestions, estimates, and statistics
25 directly to the Commission, upon request made

1 by the chair, the chair of any subcommittee cre-
2 ated by a majority of the Commission, or any
3 member designated by a majority of the Com-
4 mission.

5 (B) RECEIPT, HANDLING, STORAGE, AND
6 DISSEMINATION.—Information shall only be re-
7 ceived, handled, stored, and disseminated by
8 members of the Commission and its staff con-
9 sistent with all applicable statutes, regulations,
10 and Executive orders.

11 (4) ASSISTANCE FROM FEDERAL AGENCIES.—

12 (A) GENERAL SERVICES ADMINISTRA-
13 TION.—The Administrator of General Services
14 shall provide to the Commission on a reimburs-
15 able basis administrative support and other
16 services for the performance of the Commis-
17 sion's functions.

18 (B) OTHER DEPARTMENTS AND AGEN-
19 CIES.—In addition to the assistance prescribed
20 in subparagraph (A), departments and agencies
21 of the United States may provide to the Com-
22 mission such services, funds, facilities, staff,
23 and other support services as they may deter-
24 mine advisable and as may be authorized by
25 law.

1 (5) GIFTS.—The Commission may accept, use,
2 and dispose of gifts or donations of services or prop-
3 erty.

4 (6) POSTAL SERVICES.—The Commission may
5 use the United States mails in the same manner and
6 under the same conditions as departments and agen-
7 cies of the United States.

8 (f) NONAPPLICABILITY OF FEDERAL ADVISORY COM-
9 MITTEE ACT.—

10 (1) IN GENERAL.—The Federal Advisory Com-
11 mittee Act (5 U.S.C. App.) shall not apply to the
12 Commission.

13 (2) PUBLIC MEETINGS AND RELEASE OF PUB-
14 LIC VERSIONS OF REPORTS.—The Commission
15 shall—

16 (A) hold public hearings and meetings to
17 the extent appropriate; and

18 (B) release public versions of the reports
19 required under subsection (j).

20 (3) PUBLIC HEARINGS.—Any public hearings of
21 the Commission shall be conducted in a manner con-
22 sistent with the protection of information provided
23 to or developed for or by the Commission as re-
24 quired by any applicable statute, regulation, or Ex-
25 ecutive order.

1 (g) STAFF OF COMMISSION.—

2 (1) IN GENERAL.—

3 (A) APPOINTMENT AND COMPENSATION.—

4 The chair, in consultation with vice chair, in ac-
5 cordance with rules agreed upon by the Com-
6 mission, may appoint and fix the compensation
7 of a staff director and such other personnel as
8 may be necessary to enable the Commission to
9 carry out its functions, without regard to the
10 provisions of title 5, United States Code, gov-
11 erning appointments in the competitive service,
12 and without regard to the provisions of chapter
13 51 and subchapter III of chapter 53 of such
14 title relating to classification and General
15 Schedule pay rates, except that no rate of pay
16 fixed under this subsection may exceed the
17 equivalent of that payable for a position at level
18 V of the Executive Schedule under section 5316
19 of title 5, United States Code.

20 (B) PERSONNEL AS FEDERAL EMPLOY-
21 EES.—

22 (i) IN GENERAL.—The staff director
23 and any personnel of the Commission who
24 are employees shall be employees under
25 section 2105 of title 5, United States

1 Code, for purposes of chapters 63, 81, 83,
2 84, 85, 87, 89, and 90 of that title.

3 (ii) MEMBERS OF COMMISSION.—

4 Clause (i) shall not be construed to apply
5 to members of the Commission.

6 (2) DETAILEES.—Any Federal Government em-
7 ployee may be detailed to the Commission without
8 reimbursement from the Commission, and such
9 detailee shall retain the rights, status, and privileges
10 of his or her regular employment without interrup-
11 tion.

12 (3) CONSULTANT SERVICES.—The Commission
13 is authorized to procure the services of experts and
14 consultants in accordance with section 3109 of title
15 5, United States Code, but at rates not to exceed the
16 daily rate paid a person occupying a position at level
17 IV of the Executive Schedule under section 5315 of
18 title 5, United States Code.

19 (h) COMPENSATION AND TRAVEL EXPENSES.—

20 (1) COMPENSATION.—Each member of the
21 Commission may be compensated at not to exceed
22 the daily equivalent of the annual rate of basic pay
23 in effect for a position at level IV of the Executive
24 Schedule under section 5315 of title 5, United
25 States Code, for each day during which that member

1 is engaged in the actual performance of the duties
2 of the Commission.

3 (2) TRAVEL EXPENSES.—While away from
4 their homes or regular places of business in the per-
5 formance of services for the Commission, members
6 of the Commission shall be allowed travel expenses,
7 including per diem in lieu of subsistence, in the
8 same manner as persons employed intermittently in
9 the Government service are allowed expenses under
10 section 5703 of title 5, United States Code.

11 (i) SECURITY CLEARANCES FOR COMMISSION MEM-
12 BERS AND STAFF.—The appropriate Federal agencies or
13 departments shall cooperate with the Commission in expe-
14 ditiously providing to the Commission members and staff
15 appropriate security clearances to the extent possible pur-
16 suant to existing procedures and requirements, except that
17 no person shall be provided with access to classified infor-
18 mation under this section without the appropriate security
19 clearances.

20 (j) REPORTS OF COMMISSION.—

21 (1) INTERIM REPORTS.—The Commission may
22 submit to the President and Congress interim re-
23 ports containing such findings, conclusions, and rec-
24 ommendations for corrective measures as have been
25 agreed to by a majority of Commission members.

1 (2) FINAL REPORT.—Not later than August 31,
2 2022, the Commission shall submit to the President,
3 Congress, and the public a final report containing
4 such findings, conclusions, and recommendations for
5 corrective measures as have been agreed to by a ma-
6 jority of Commission members.

7 (k) TERMINATION.—

8 (1) IN GENERAL.—The Commission, and all the
9 authorities of this section, shall terminate 60 days
10 after the date on which the final report is submitted
11 under subsection (j)(2).

12 (2) ADMINISTRATIVE ACTIVITIES BEFORE TER-
13 MINATION.—The Commission may use the 60-day
14 period referred to in paragraph (1) for the purpose
15 of concluding its activities, including providing testi-
16 mony to committees of Congress concerning its re-
17 ports and disseminating the final report.

18 (l) FUNDING.—

19 (1) AUTHORIZATION OF APPROPRIATIONS.—
20 There is authorized to be appropriated to the Com-
21 mission such sums as may be necessary for any fis-
22 cal year, half of which shall be derived from the ap-
23 plicable account of the House of Representatives,
24 and half of which shall be derived from the contin-
25 gent fund of the Senate.

1 (2) DURATION OF AVAILABILITY.—Amounts
2 made available to the Commission under paragraph
3 (1) shall remain available until the termination of
4 the Commission.